



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: February 01, 2021

TIME: 3:24 PM

WSR 21-04-123

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR ; or

Expedited Rule Making--Proposed notice was filed as WSR ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) WAC 246-322-990 Fees. The Department of Health (department) is proposing raising fees for psychiatric hospitals to implement the requirements of Substitute House Bill 2426 (Chapter 115, Laws of 2020).

### Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

03/11/2021

2:00 PM

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Department of Health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without physical meeting space, will be held instead. We invite you to participate in our public rules hearing using your computer, tablet or smartphone.

Please register at:

<https://attendee.gotowebinar.com/register/8632638936705010190>

After registering, you will receive a confirmation email containing information about joining the webinar.

Participants can use their telephone or computer mic & speakers (VoIP). United States +1 (562) 247-8321

Date of intended adoption: 03/18/2021 (Note: This is NOT the effective date)

**Submit written comments to:**

Name: Stephanie Vaughn  
Address: P.O. Box 47852  
Olympia, WA 98504-7852  
Email: <https://fortress.wa.gov/doh/policyreview>  
Fax: 360-236-2321  
Other:  
By (date) 03/11/2021

**Assistance for persons with disabilities:**

Contact Stephanie Vaughn  
Phone: 360-236-4617  
Fax: 360-236-2321  
TTY: 711  
Email: [stephanie.vaughn@doh.wa.gov](mailto:stephanie.vaughn@doh.wa.gov)  
Other:  
By (date) 03/04/2021

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department is proposing an increase to the psychiatric hospital licensing fees. This increase is needed to recover the costs of implementing Substitute House Bill (SHB) 2426 (Chapter 115, Laws of 2020) which amended chapters 43.70 and 71.12 RCW to enhance the department's regulatory oversight for psychiatric hospitals to protect the health, safety, and well-being of patients seeking behavioral health care in these facilities. The department also made three technical edits to match department WAC style guidelines.

The current initial application and renewal fee is \$135 per bed. The fee amount is determined by taking the total amount of new costs and dividing it by the number of projected licensed beds. The department estimates the amount necessary to recover the costs of this new work is \$360 per bed. This would increase fees to \$495 per bed, effective July 1, 2021.

**Reasons supporting proposal:** State law, RCW 43.70.250 (License fees for professions, occupations, and businesses), requires that a business-licensing program be fully self-supporting, and that sufficient revenue be collected through fees to fund expenditures. The department requires a fee increase to recover the cost of implementing SHB 2426. One-time general-fund state funding was provided in fiscal year 2021 to cover costs until fees could be established effective July 1, 2021.

New work required by SHB 2426 that increases the department's costs includes:

- 1) Providing technical assistance to psychiatric hospitals licensed under chapter 71.12 RCW;
- 2) Performing additional unannounced inspections of new psychiatric hospitals during the first two years of licensure or change of ownership; and
- 3) Receiving, reviewing, and investigating reports of deaths and patient elopements.

**Statutory authority for adoption:** RCW 43.70.250; 43.70.110; and 71.12.670

**Statute being implemented:** SHB 2426 (Chapter 115, Laws of 2020); RCW 43.70.250 and RCW 71.12.470

**Is rule necessary because of a:**

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization) Department of Health  Private  Public  Governmental

<b>Name of agency personnel responsible for:</b>			
	Name	Office Location	Phone
Drafting:	Stephanie Vaughn	111 Israel Road SE Tumwater WA 98501	360-236-4617
Implementation:	Julie Tomaro	111 Israel Road SE Tumwater WA 98501	360-236-2937
Enforcement:	Julie Tomaro	111 Israel Road SE Tumwater WA 98501	360-236-2937

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** 01/29/2021

**Signature:**

**Name:** Jessica Todorovich for Umair A. Shah, MD, MPH



**Title:** Chief of Staff for Secretary of Health

**WAC 246-322-990 Private psychiatric hospital fees.** This section establishes the initial licensure and annual renewal fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital (~~to the department~~);

(b) Submit to the department an annual renewal fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.